



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 7, 1998

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR98-1881

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117475.

The Houston Police Department (the "department") received an open records request for the "[n]ame and Employee number of [the] officer assigned to 'take home' patrol car (Shop) with the license tag # 650-836 on May 8, 1998." You contend that the requested information is made confidential pursuant to section 143.089 of the Local Government Code and therefore must be withheld from the public pursuant to section 552.101 of the Government Code.¹

In Open Records Decision No. 562 (1990), this office discussed the confidentiality of personnel file information maintained by police and fire departments in cities that have adopted the fire fighters' and police officers' civil service law in accordance with the provisions of chapter 143 of the Local Government Code. Section 143.089 of the Local Government Code provides for the creation of two personnel files for police officers: one that is maintained by the city's civil service director and the other by the city police department.

Information contained in personnel files held by the civil service, including all

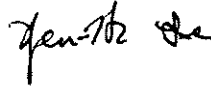
¹Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

records relating to misconduct by police officers that resulted in disciplinary action, as contemplated by chapter 143, must be released to the public unless the information comes within one of the Open Records Act's exceptions to required public disclosure. You inform us, however, that the information at issue here is contained in the records of an internal affairs investigation that has not resulted in disciplinary action. *See* Gov't Code § 143.089(a)(2). You therefore contend that the requested information is made confidential under section 143.089(g) of the Local Government Code and thus may not be released to the requestor.

While we generally agree that the department's records of internal affairs investigations that do not result in disciplinary action are confidential under section 143.089(g), the information at issue is contained in department records separate and apart from those of the internal affairs investigation. The department may not engraft section 143.089's confidentiality to other records that exist independently of the internal affairs investigation. Because you have raised no other exception to required public disclosure, we conclude that the department must release the requested information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/nc

Ref: ID# 117475

Enclosures: Submitted documents

cc: Mr. Stephen Dean
KTRH Newsradio
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(w/o enclosures)